

RECEIVED
CENTRAL FAX CENTER**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE** **FEB 06 2009**

Docket No. 11486

Application of

John C. Goodwin, III

Serial No. 10/668,396

Group Art Unit: 3689

Filed: September 23, 2003

Examiner: G. Araque

For: **METHOD OF DISTINGUISHING STORE ITEMS HAVING RFID LABELS
FROM ITEMS BROUGHT INTO THE STORE BY A SHOPPER**MS Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**CERTIFICATION OF FACSIMILE TRANSMISSION**

Sir:

I hereby certify that the following papers are being
facsimile transmitted to the Patent and Trademark Office on the
date shown below to Fax No. (571) 273-8300.

Fax Transmittal Sheet	1 page
Appeal Brief Transmittal	1 page
Appeal Brief	11 pages
Total	13 pages

February 6, 2009
DateSallie. Spicer
Printed name of person signing*Sallie Spicer*
Signature

RECEIVED
CENTRAL FAX CENTER

FEB 06 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 11486

Application of:

John C. Goodwin III

Art Unit: 3689

Serial No.: 10/668,396

Examiner: G. Araque

Filed: September 23, 2003

For: **METHOD OF DISTINGUISHING STORE ITEMS HAVING RFID
LABELS FROM ITEMS BROUGHT INTO THE STORE BY A SHOPPER**MS Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450CERTIFICATE OF MAILING
(37 CFR 1.8a)I hereby certify that this correspondence is, on the date
shown below, being deposited with the United States
Postal Service with sufficient postage as first class mail in
an envelope addressed to the Commissioner for Patents,
Alexandria, VA 22313.2-6-2009
DateSallie Spicer
Sallie Spicer

APPEAL BRIEF

Sir:

This is an appeal brief submitted in response to the Final
Office Action dated November 6, 2008, rejecting claims 1 and 14
of the present application.

(1) REAL PARTY IN INTEREST

The real party in interest is NCR Corporation.

(2) RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

(3) STATUS OF THE CLAIMS

Claims 1-7, 14-18, 21, and 22 are pending in the application.

Claims 1-22 stand rejected.

Claims 1 and 14 are appealed.

(4) STATUS OF AMENDMENTS

Appellant did not file a Response subsequent to the Office Action of November 6, 2008.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 includes a method of distinguishing items for sale by a store from personal items brought into the store by a shopper:

storing stored item identification information associated with radio frequency identification (RFID) labels on items for sale by the store in an inventory file; (Fig. 2; page 5, lines 17-19)

storing costs for items for sale in a price look-up file; (page 4, lines 15-16)

reading RFID labels of items read by an RFID label reader as part of a purchase transaction to obtain read identification information; (Fig. 2; page 5, lines 20-21)

comparing the read identification information to the stored identification information to determine whether each read RFID label is associated with an item for sale; (Fig.

2; page 5, lines 22-28)

utilizing the item identification information for each read RFID label associated with an item for sale to obtain the cost for the item from the price look-up file; (page 4, lines 1-3)

storing the item identification information for each read RFID label associated with the item for sale in a transaction record of the shopper; (Fig. 2, page 6, lines 1-3)

ignoring the read identification information of any read RFID labels determined to be in the transaction record and thereafter ignoring the read identification information of any remaining read RFID labels determined not to be associated with an item for sale as being associated with personal items brought into the store by the shopper. (Fig. 2, page 6, lines 7-11, 22-24)

Claim 14 includes a system for distinguishing items for sale by a store from personal items brought into the store by a shopper:

a label reader for reading radio frequency identification (RFID) labels on items the shopper possesses at the time of a purchase transaction; (Fig. 1, numeral 38; page 3, lines 18-19)

memory for storing an inventory file of stored item identification information associated with RFID labels on items for sale by the store; (Fig. 1, numeral 44; page 4, lines 15-16)

memory for storing the item identification information for each read RFID label associated with the item for sale during a transaction in a transaction record of the shopper; (Fig. 1, numeral 48; page 4, lines 6-9)

memory for storing costs for items for sale in a price look-up file; (Fig. 1, numeral 42; page 4, lines 15-16) and computer for obtaining identification information from the RFID labels on the items the shopper possesses from the label reader, for comparing the read identification information to the stored identification information associated with the items for sale by the store to determine whether each read RFID label is associated with an item for sale, utilizing the item identification for each read RFID label associated with an item for sale to obtain the cost for the item from the price look-up table, and for ignoring the read identification information of any read RFID labels determined to be in the transaction record and thereafter ignoring the read identification information of any remaining read RFID labels determined not to be associated with an item for sale as being associated with personal items brought into the store by the shopper. (Fig. 1, numeral 12; page 3, line 17-31; page 4, lines 1-9)

~~(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL~~

Claims 1 and 14 stand rejected under 35 USC 103(a) as unpatentable over Bowers (6,025,780) in view of Otto (20030177053).

(7) ARGUMENT

Bowers (6,025,780) discloses an exit security system which includes a database of RFID label identifiers. The system reads RFID labels on items and determines whether the RFID label identifiers are in the database. If some RFID label identifiers

are not in the tag database, the system performs "no action". For those RFID label identifiers found in the database, the system determines whether the corresponding items have been purchased, either from the RFID label database or from the RFID labels themselves. (see column 9; column 10, lines 1-43)

Otto (20030177053) discloses a price file and obtaining prices of items from the price file using RFID identifiers.

I. With respect to claims 1 and 14, Bowers (6,025,780) and Otto (20030177053) fail to teach each and every element of the claimed invention.

With respect to claim 1, Bowers and Otto fail to disclose

storing the item identification information for each
read RFID label associated with the item for sale in a
transaction record of the shopper; and

ignoring the read identification information of any read RFID labels determined to be in the transaction record and thereafter ignoring the read identification information of any remaining read RFID labels determined not to be associated with an item for sale as being associated with personal items brought into the store by the shopper.

With respect to claim 14, Bowers and Otto fail to disclose

memory for storing the item identification information for each read RFID label associated with the item for sale during a transaction in a transaction record of the shopper;

...

computer for ... ignoring the read identification information of any read RFID labels determined to be in the transaction record and thereafter ignoring the read identification information of any remaining read RFID labels determined not to be associated with an item for sale as being associated with personal items brought into the store by the shopper.

Bowers teaches an RFID label database containing identification information of RFID labels for sale in a store and compares read RFID label identifiers to RFID label identifiers in the RFID label database.

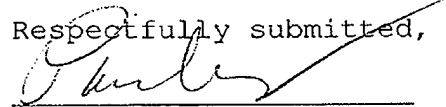
Bowers fails to disclose a transaction record for storing item identification information of items associated with each RFID label read during a transaction of a shopper. Bowers further fails to disclose comparing the item identification information in the transaction record to information in an RFID label database.

Conclusion

Appellant respectfully submits that the Office has failed to establish a proper rejection under 35 USC 103(a), and that the final rejection of claims 1 and 14 is improper.

Appellant further submits that claims 1 and 14 are allowable and respectfully request that the rejection of claims 1 and 14 by the Office be reversed by the Board.

Respectfully submitted,



Paul W. Martin
Reg. No. 34870
(937) 445-2990

(8) CLAIMS APPENDIX

1. A method of distinguishing items for sale by a store from personal items brought into the store by a shopper comprising the steps of:

storing stored item identification information associated with radio frequency identification (RFID) labels on items for sale by the store in an inventory file;

storing costs for items for sale in a price look-up file;

reading RFID labels of items read by an RFID label reader as part of a purchase transaction to obtain read identification information;

comparing the read identification information to the stored identification information to determine whether each read RFID label is associated with an item for sale;

utilizing the item identification information for each read RFID label associated with an item for sale to obtain the cost for the item from the price look-up file;

storing the item identification information for each read RFID label associated with the item for sale in a transaction record of the shopper;

ignoring the read identification information of any read RFID labels determined to be in the transaction record and thereafter ignoring the read identification information of any remaining read RFID labels determined not to be associated with an item for sale as being associated with personal items brought into the store by the shopper.

14. A system for distinguishing items for sale by a store from personal items brought into the store by a shopper comprising:

a label reader for reading radio frequency identification (RFID) labels on items the shopper possesses at the time of a

purchase transaction;

memory for storing an inventory file of stored item identification information associated with RFID labels on items for sale by the store;

memory for storing the item identification information for each read RFID label associated with the item for sale during a transaction in a transaction record of the shopper;

memory for storing costs for items for sale in a price look-up file; and

computer for obtaining identification information from the RFID labels on the items the shopper possesses from the label reader, for comparing the read identification information to the stored identification information associated with the items for sale by the store to determine whether each read RFID label is associated with an item for sale, utilizing the item identification for each read RFID label associated with an item for sale to obtain the cost for the item from the price look-up table, and for ignoring the read identification information of any read RFID labels determined to be in the transaction record and thereafter ignoring the read identification information of any remaining read RFID labels determined not to be associated with an item for sale as being associated with personal items brought into the store by the shopper.

(9) EVIDENCE APPENDIX

No evidence pursuant to §§1.130, 1.131, or 1.132 or any other evidence has been entered by the Examiner or relied upon by Appellant.

(10) RELATED PROCEEDINGS APPENDIX

There are no related decisions rendered by a court or the Board or copies of such decisions.